

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GARY WAYNE WISEMAN, JR.,

Defendant.

No. 09-CR-4045-DEO

**ORDER
ACCEPTING REPORT AND
RECOMMENDATION CONCERNING
GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

On March 25, 2010, a one count Second Superseding Indictment (Docket No. 210) was returned in the above-referenced case.

Count 1 of the Second Superseding Indictment charges that beginning about January 2007, and continuing through August 2009, in the Northern District of Iowa and elsewhere, defendant Gary Wayne Wiseman, Jr., and other named defendants, did knowingly and unlawfully combine, conspire, confederate, and agree with each other and with other persons, and known and unknown to the Grand Jury,

1. to manufacture 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, or 50 grams or more of actual (pure)

methamphetamine, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(A), and;

2. to manufacture 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine, a Schedule II controlled substance, or 5 grams or more of actual (pure) methamphetamine, a Schedule II controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(B), and

This was in violation of Title 21, United States Code, Section 846.

On April 2, 2010, defendant Gary Wayne Wiseman, Jr., appeared before Chief United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Count 1 of the Second Superseding Indictment. In the Report and Recommendation (Docket No. 268, 04/02/2010), Chief United States Magistrate Judge Paul A. Zoss recommends that defendant Gary Wayne Wiseman, Jr.'s guilty plea be accepted. No objections to Judge Zoss's Report and Recommendation were filed. The Court,

therefore, undertakes the necessary review to accept defendant Gary Wayne Wiseman Jr.'s plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b).

In this case, no objections have been filed, and it appears to the Court upon review of Chief Magistrate Judge Zoss's findings and conclusions that there are no grounds to reject or modify them.

IT IS THEREFORE HEREBY ORDERED that this Court accepts Chief Magistrate Judge Zoss's Report and Recommendation (Docket No. 268), and accepts defendant Gary Wayne Wiseman Jr.'s plea of guilty in this case to Count 1 of the Second Superseding Indictment filed on March 25, 2010 (Docket No. 210).

IT IS SO ORDERED this 2nd day of June, 2010.

A handwritten signature in black ink, reading "Donald E. O'Brien", is written over a horizontal line.

Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa